

**SB 5529** - S AMD

By Senator ....

On page 1, beginning on line 5, strike all material down through line 32 on page 3 and insert the following:

**"Sec. 1.** RCW 82.04.4452 and 2000 c 103 s 7 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for each person whose research and development spending during the year in which the credit is claimed exceeds 0.92 percent of the person's taxable amount during the same calendar year.

(2) The credit is equal to the greater of the amount of qualified research and development expenditures of a person or eighty percent of amounts received by a person other than a public educational or research institution in compensation for the conduct of qualified research and development, multiplied by the ~~((rate provided in RCW 82.04.260(3) in the case of a nonprofit corporation or nonprofit association engaging within this state in research and development, and the rate provided in RCW 82.04.290(2) for every other person))~~ person's average tax rate.

(3) Any person entitled to the credit provided in subsection (2) of this section as a result of qualified research and development conducted under contract may assign all or any portion of the credit to the person contracting for the performance of the qualified research and development.

(4) The credit, including any credit assigned to a person under subsection (3) of this section, shall be taken against taxes due for the same calendar year in which the qualified research and development expenditures are incurred. The credit, including any credit assigned to a person under subsection (3) of this section, for each calendar year shall not exceed the lesser of two million dollars or the amount of tax otherwise due under this chapter for the calendar year.

(5) Any person taking the credit, including any credit assigned to a person under subsection (3) of this section, whose research and development spending during the calendar year in which the credit is

1 claimed fails to exceed 0.92 percent of the person's taxable amount  
2 during the same calendar year shall be liable for payment of the  
3 additional taxes represented by the amount of credit taken together  
4 with interest, but not penalties. Interest shall be due at the rate  
5 provided for delinquent excise taxes retroactively to the date the  
6 credit was taken until the taxes are paid. Any credit assigned to a  
7 person under subsection (3) of this section that is disallowed as a  
8 result of this section may be taken by the person who performed the  
9 qualified research and development subject to the limitations set forth  
10 in subsection (4) of this section.

11 (6) Any person claiming the credit, and any person assigning a  
12 credit as provided in subsection (3) of this section, shall file an  
13 affidavit form prescribed by the department which shall include the  
14 amount of the credit claimed, an estimate of the anticipated qualified  
15 research and development expenditures during the calendar year for  
16 which the credit is claimed, an estimate of the taxable amount during  
17 the calendar year for which the credit is claimed, and such additional  
18 information as the department may prescribe.

19 (7) A person claiming the credit shall agree to supply the  
20 department with information necessary to measure the results of the tax  
21 credit program for qualified research and development expenditures.

22 (8) The department shall use the information required under  
23 subsection (7) of this section to perform three assessments on the tax  
24 credit program authorized under this section. The assessments will  
25 take place in 1997, 2000, and 2003. The department shall prepare  
26 reports on each assessment and deliver their reports by September 1,  
27 1997, September 1, 2000, and September 1, 2003. The assessments shall  
28 measure the effect of the program on job creation, the number of jobs  
29 created for Washington residents, company growth, the introduction of  
30 new products, the diversification of the state's economy, growth in  
31 research and development investment, the movement of firms or the  
32 consolidation of firms' operations into the state, and such other  
33 factors as the department selects.

34 (9) For the purpose of this section:

35 (a) "Average tax rate" means a person's total tax under this  
36 chapter for the reporting period divided by the taxpayer's total  
37 taxable income under this chapter for the reporting period.

38 (b) "Qualified research and development expenditures" means  
39 operating expenses, including wages, compensation of a proprietor or a

1 partner in a partnership as determined under rules adopted by the  
2 department, benefits, supplies, and computer expenses, directly  
3 incurred in qualified research and development by a person claiming the  
4 credit provided in this section. The term does not include amounts  
5 paid to a person other than a public educational or research  
6 institution to conduct qualified research and development. Nor does  
7 the term include capital costs and overhead, such as expenses for land,  
8 structures, or depreciable property.

9 ((~~(b)~~)) (c) "Qualified research and development" shall have the  
10 same meaning as in RCW 82.63.010.

11 ((~~(c)~~)) (d) "Research and development spending" means qualified  
12 research and development expenditures plus eighty percent of amounts  
13 paid to a person other than a public educational or research  
14 institution to conduct qualified research and development.

15 ((~~(d)~~)) (e) "Taxable amount" means the taxable amount subject to  
16 the tax imposed in this chapter required to be reported on the person's  
17 combined excise tax returns during the year in which the credit is  
18 claimed, less any taxable amount for which a credit is allowed under  
19 RCW 82.04.440."

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**EFFECT:** Uses the taxpayer's average tax rate for computing the hi-tech business and occupation tax credit rather than 1.5%.